

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION**

)	COMPLAINT NO. 98-074
)	ADMINISTRATIVE CIVIL LIABILITY FOR
In the matter of:)	VIOLATIONS OF THE CALIFORNIA WATER CODE
)	AND BOARD ORDER 97-112
CHEVRON U.S.A. INC.)	(NPDES PERMIT NO. CA0000337)
)	WASTE DISCHARGE REQUIREMENTS FOR
	}	THE CHEVRON U.S.A. INC. (EL SEGUNDO REFINERY)

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Chevron U.S.A. Inc. (hereinafter Chevron or discharger) is alleged to have violated requirements contained in Board Order 97-112 and certain provisions of the California Water Code (CWC), for which the Regional Board may impose civil liability under Section 13385 of CWC.
2. Unless waived, a hearing on this matter will be held before the Regional Board on November 2, 1998 in the Council Chambers, Camarillo City Hall, 601 Carmen Drive, Camarillo, California. You and/or your representative(s) will have an opportunity to be heard and to contest the allegations in this complaint and the imposition of civil liability by the Regional Board. An agenda for the hearing will be mailed to you not less than ten days before the hearing date.
3. At the hearing, the Regional Board will consider whether to affirm, reject or modify the proposed administrative liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Chevron is alleged to have violated waste discharge requirements for effluent and receiving water contained in Board Order 97-112 (NPDES Permit No. CA0000337) by failing to adequately maintain its stormwater diversion system. As a result of this failure, Chevron discharged approximately 1,176,000 gallons of wastewater containing oil and grease concentrations of 47 mg/l and 100 mg/l, in excess of the daily maximum discharge limit of 24 mg/l, from 6:30 p.m. to 10:15 p.m. on January 11, 1998. This discharge generated a significant oil sheen in the receiving water for 3 days between January 12, 1998 and January 14, 1998. Impacts to ocean water and to aquatic life are unknown.

THE FOLLOWING FACTS ARE THE BASIS FOR THE ALLEGED VIOLATIONS IN THIS MATTER:

BACKGROUND

5. Chevron refines crude oil at the El Segundo Refinery (Refinery), located at 324 W. El Segundo Boulevard, El Segundo, California. The Refinery, which processes an average of 265,000 barrels of crude oil per operating day produces reformulated gasoline, jet fuel, diesel fuel, fuel oils, gas oils, liquefied petroleum gases, fuel blending components, coke, ammonia, and molten sulfur.

The Refinery processes generate up to 8.8 million gallons per day (MGD) of wastewater during dry weather and up to 23 MGD during wet weather. The wastewater consists of refinery and marketing wastewater (6.5 MGD), petroleum hydrocarbon contaminated shallow well groundwater (up to 2.34 MGD), and rainfall runoff which may pick up pollutants (14 MGD). Following treatment, the treated wastewater is discharged to the Santa Monica Bay under waste discharge requirements prescribed in Board Order No. 97-112, adopted by this Regional Board on August 25, 1997.

6. The Refinery's wastewater is collected and treated in two separate drain and treatment systems (Figure 1): the unsegregated and the segregated systems. The unsegregated system is used for non-process wastewater, including cooling tower blowdown, steam condensate, a portion of the Refinery's recovery well groundwater, and other wastewater streams containing free oil that is removed with primary treatment only. This system is also used to treat storm water. The unsegregated system includes a gravity separator and an induced air flotation (IAF) unit.

The segregated system is used to treat petroleum process wastewater containing emulsified oils and a portion of the Refinery's recovery well groundwater. It is comprised of gravity separators, a dissolved air flotation (DAF) unit and activated sludge units for secondary (biological) treatment.

Effluent from the segregated system that does not meet the discharge limits specified in the NPDES permit must undergo additional solids removal from an auxiliary DAF unit, or be routed to auxiliary effluent diversion tanks for additional IAF treatment. The auxiliary effluent diversion tanks are available for handling off-specification process wastewater from either of the two systems, in addition to store rainfall runoff. The two systems can be operated such that flow from either system can be diverted either to effluent diversion tanks or to the other system, where if needed, the diverted flow can receive alternative or additional treatment. This operational treatment flexibility provides control such that final effluent quality is maintained in compliance with requirements.

7. Stormwater runoff at the Refinery is collected and treated in the Refinery's unsegregated drain system along with non-process wastewater. In order to meet the total effluent stream discharge limitations required in Order No. 97-112, stormwater runoff can be diverted to auxiliary diversion tanks for IAF treatment. Based on the information provided by the discharger, 89.3% of the rainfall run-off is considered contaminated as defined in 40 Code of Federal Regulation (CFR) Part 419.11(g). Under normal operating conditions,

i.e., during periods when there is no off-specification effluent, available capacity for stormwater treatment is about 14 MGD.

Under normal rain conditions, the stormwater is treated by the No. 2 Separator and the No. 1 IAF unit. Rainfall that exceeds the 5,000 gallons per minute (gpm) capacity of the No. 1 IAF unit is routed to a diversion system which consists of a large sump (T-260 Wet Pit), four centrifugal pumps (P-261, P-262, P-263, and P-264), and two large diversion tanks (T-932 and T-934) with a total capacity of 13,770,540 gallons. When water is diverted to the T-260 Wet Pit, the centrifugal pumps are remotely activated to send water to either the T-932 or T-941 diversion tanks. The pump capacities are 5,500 gpm for P-261, 9,000 gpm for P-262, and 33,000 gpm for both P-263 and P-264. P-264 is a back-up pump for P-263.

If there are any problems with P-263 and P-264, then the diverted water from the unsegregated drain system will overflow from T-260 Wet Pit to a secondary collection basin (T-260 Overflow Collection Basin). This basin, a converted separator, can hold approximately 645,000 gallons of water. The water from T-260 Overflow Collection Basin is then removed and placed in diversion tankage by vacuum trucks and a temporary pumping system. If the water volume exceeds the capacity of T-260 Overflow Collection Basin, the untreated water, if it has reached the overflow weir, will then overflow into outlet trough and discharge, along with treated water, into the ocean via an outfall line.

Water from the T-932 and T-941 diversion tanks is treated through No. 2 and No. 3 IAF units. After IAF treatment, the water combines with the treated water from No. 1 IAF and secondary treated water from the activated sludge unit at the Effluent Treatment Plant. All three sources are combined in the No. 4 Manhole before flowing into a by-pass pipe above the T260 Overflow Collection Basin and flowing into flume (effluent compliance point) followed by a drop-box before discharged through a 3,500 feet outfall line. The outfall line is five feet in diameter and extends 3,200 feet out in the ocean to a depth of 40 feet along the topography of ocean surface.

Water samples are collected every four hours from the effluent compliance point and analyzed at Chevron's in-house laboratory to ensure effluent compliance at all times. Compliance samples are collected according to the NPDES permit schedule and sent to a State Department of Health Service certified laboratory for analysis.

SUMMARY OF JANUARY 1998 EVENT

8. Due to inadequate design and maintenance of the system for diverting oily stormwater, Chevron violated effluent discharge limits for oil and grease and also requirements for the receiving water as summarized below:

- a. On January 9, 1998, a failure of the diversion pumps resulted in an overflow of untreated oily storm water into the T260 Wet Pit Collection Basin for approximately two hours starting 10 p.m. Untreated stormwater accumulated in the Collection Basin. When the water level reached the overflow weir, the untreated storm water mixed with treated wastewater and eventually discharged into Santa Monica Bay via an ocean outfall pipeline.
- b. On January 11, 1998, Chevron discharged approximately 1,176,000 gallons of wastewater with oil and grease concentrations of 47 mg/l and 100 mg/l, in violation of the daily maximum discharge limit of 24 mg/L.
- c. Between January 12, 1998 and February 4, 1998, Chevron discharged approximately 131,901,962 gallons of treated wastewater, which generated a visible oil sheen in the receiving water for 14 days.

The volume of wastewater discharged, the oil and grease concentrations at the effluent compliance point, and the size of ocean oil sheen were documented in Chevron's letters dated March 26, 1998 and June 25, 1998. The peak flow of wastewater discharged and the volume of wastewater discharged for the dates without oil sheens are obtained from Chevron NPDES Discharge Monitoring Reports for January and February 1998. All data are summarized in Table 1 (page 17).

9. The chronological sequence of events is documented in a report titled *January 11, 1998 Oil and Grease Incident*, dated March 4, 1998, prepared by Chevron and summarized as follows:

- a. On January 9, 1998, a Rain Gage at the Los Angeles Civic Center indicated 2.01 inches of rain on January 9, 1998. This storm generated more than approximately 10.8 million gallons of storm water into the unsegregated system requiring diversion of flow from No. 2 Separator to the T-260 Wet Pit. The two smaller pumps at the T-260 Wet Pit, P-261 and P-262, were unable to keep up with the rising level in T-260. The plant operators then remotely started P-263, but, a thrust bearing on P-263 failed, thus shutting down the pump. The back-up pump, P-264, was then immediately activated to pump down the rising level in T-260. Pump P-264 also failed to operate when the control valve downstream of the pump closed due to an air leak in the instrumentation system.

Pumps P-261 and P-262 were unable to keep up with the rising level in T-260 Wet Pit, and oily water subsequently overflowed out of T-260 and into the T-260 Overflow Collection Basin. At approximately 11:00 p.m., light free-oil on the wastewater surface overflowed from the T-260 Overflow Collection Basin weir into the outlet trough. The outlet trough flows into the flume, which drops into the outfall line. The overflow collection basin was filled quickly before any action could be taken to pump down the basin through temporary pumps or vacuum trucks. An unknown volume of untreated water was discharged through the ocean outfall line after exceeding the T-260 Overflow Collection Basin, which has a capacity of

645,000 gallons. An oil and grease grab sample collected from the flume at 11:00 p.m. showed a concentration of 4 mg/L, which is below the effluent discharge limit of 12 mg/L for the monthly 30-day average and 24 mg/L for the daily maximum.

- b. On January 10, 1998, the water in T-260 Overflow Collection Basin was pumped, by a temporary pumping system, into effluent diversion tank T-189 and further diverted to the segregated system for treatment. The oil and grease sample collected at the flume averaged 5 mg/L. Chevron's Mooring Masters did not report any oil sheen present at the nearby marine berths in the surrounding areas. Both pumps T263 and T264 were repaired on January 10, 1998. However the water level at T260 Wet Pit was not high enough to activate either pump T263 or T264.
- c. On January 11, 1998, there was no overflow from the T-260 Wet Pit since the January 9, 1998 event, and the T-260 Overflow Collection Basin had a level below the overflow weir. The oil and grease sample collected in the morning showed 3 mg/L.

The first indication of oil and grease in the flume was detected at the 7:00 p.m. when the operator collected a grab sample. This sample was analyzed twice at approximately 8:00 p.m. and 9:00 p.m., with results of 47 mg/L and 31 mg/L, respectively. Another sample was collected at 10:00 p.m., and the oil and grease result showed 100 mg/L. At 10:15 p.m., the effluent treatment plant operators immediately diverted the flow and ceased discharge.

- d. On January 12, 1998, Chevron took corrective actions summarized as follows:

At 3:00 a.m., a vacuum truck emptied residual oil from the outlet trough, and inspection and cleanup commenced.

At 7:15 a.m., Chevron sent out a boat crew to check the area near the Refinery's effluent discharge. At 8:30 a.m., the crew reported back that an oil sheen was present along with a petroleum odor. A Chevron Mooring Master, who was in a vessel that was anchored at 8:26 a.m. at the Santa Monica Bay, also notified the Refinery at 8:40 a.m. of the presence of an oil sheen.

At 11:20 a.m., Chevron notified the Regional Board of the oil sheen at the Refinery's outfall. Chevron also notified the following agencies: El Segundo Fire Department, National Response Center, Office of Emergency Services, the United States Coast Guard (USCG), and the State Lands Commission.

At 11:45 a.m., Chevron deployed a boom boat to the area of the oil sheen. However, the oil sheen was not enough for the boom to be effective. Chevron also collected samples of the oil sheen.

At 2:40 p.m., the USCG inspected the Refinery. Chevron proposed a monitoring plan, as oil in the outfall line and on the receiving water could not be recovered.

At 3:00 p.m., Chevron resumed discharge of wastewater through the outlet trough and the flume. Compliance oil and grease grab samples collected at 3:05 p.m. and 7:35 p.m. showed 21 mg/L and 5 mg/L, respectively, which are in compliance with the daily maximum discharge limit.

- e. Between January 13 and 15, 1998, the oil sheen and petroleum odor were still evident in the area of the outfall discharge on the receiving waters. Chevron continued to monitor the oil sheen and provided daily updates to the Regional Board and the USCG. The average concentrations of oil and grease compliance grab samples collected over these three days were less than 5.8 mg/L. Operator grab samples averaged less than 3.2 mg/L.

On January 14, 1998, the Chevron's Wildlife Care Team surveyed the beach for any possible impacts from the oil sheen. The team reported no injured, oiled, or sick wildlife. Additional receiving water samples were collected on January 14, 1998.

- f. Between January 16 and 20, 1998, there was no oil sheen present.
 - g. On January 21, 1998, Chevron increased the rate of wastewater discharged to lower the water levels in the wastewater diversion tanks. At 12:00 p.m., the discharge rate was 11,559 gpm, and a new oil sheen appeared. The increase in discharge rate apparently discharged oil that had been trapped in the outfall line. Chevron notified the Regional Board and the USCG of the reappearance of an oil sheen. The operator grab samples for oil and grease averaged 3 mg/L. Additional receiving water samples were collected.
 - h. Between January 22, to February 4, 1998, the oil sheen remained visible at the Refinery's outfall, but it decreased in size daily. On January 23, 1998, at 10:30 a.m., the Regional Board and the USCG inspected the drop-box located between the flume and outfall line and observed no oil backing up from the outfall. By 12:00 p.m., a sheen of oil appeared in the drop-box. Absorbent material was dropped down into the drop-box, but the sheen could not be absorbed. On January 28, 1998, another unsuccessful attempt was made to absorb the oil sheen that backed-up into the drop-box. A drop-box sample indicated that there was not enough collectable material to recover any petroleum hydrocarbons.
 - i. Between February 5 to 24, 1998, there was no evidence of any oil sheen.
10. On January 23, 1998, Regional Board staff attended a meeting called by the U.S. Coast Guard to discuss the containment and removal of Chevron oil release in the ocean. Chevron indicated that a 1/4-inch to 1/2-inch oil layer was present on the surface of the overflow wastewater in the T-260 Overflow Collection Basin on January 12, 1998. Chevron pumped the water and oil from the T-260 Overflow Collection Basin into diversion tank T-189 and the water was later treated through segregated system before discharge.

Chevron believed that the oil trapped inside the outfall line caused the receiving water violation after January 21, 1998.

11. According to the maintenance record for reliability check, Chevron completed quarterly reliability checks for all four pumps on December 9, 1997 and all pumps were in good condition. This reliability checks did not include air leak testing for pump T-264, which later malfunctioned on January 9, 1998.
12. As documented in a report dated March 4, 1998, Chevron's investigation revealed that the free-oil probably remained trapped along the north and south edges of the outlet trough. This is due to the hydraulic mound that forms in the outlet trough when there is high flow and velocity due to storm water treatment. On January 9, 1998, at 11:00 p.m., the discharge flow through the flume was 12,400 gpm, while normal flow is around 5,000 gpm. The discharge flow through the outlet trough remained high, averaging 7,879 gpm until January 11, 1998. After the discharge flow stabilized to normal flow rates around 6:30 p.m. on January 11, 1998, the free-oil migrated to the flume, and resulted in oil and grease concentrations exceeding the daily maximum discharge limit at the effluent compliance point.

The discharge flows by gravity through the outfall at a very low velocity, with an average discharge rate of approximately 0.5 foot per second. Due to this nature of discharge, pockets of oil were trapped within the outfall for over three weeks, causing an intermittent sheen at the discharge point.

13. The Chevron NPDES Discharge Monitoring Reports for January and February 1998 documented the rainfall and daily rainfall runoff as summarized in Table 2 (page 18).
14. Chevron collected receiving water samples within or underneath the sheen, and detected the following contaminants, as documented in the March 4, 1998 letter: total petroleum hydrocarbon (C6-C16) of 190 ppb, naphthalene of 0.2 ppb, 2-methylnaphthalene of 1.1 ppb, acenaphthene of 0.2 ppb, fluorene of 0.4 ppb, phenanthrene of 1.3 ppb, and pyrene of 0.3 ppb. The last four compounds mentioned above are PAHs which total 2.2 ppb. Chevron also estimated that approximately 25 gallons of free-oil overflowed into the outlet trough, based on oil spill calculations (Exxon Oil spill Response Field Manual, 1992) determined by the size and appearance of the oil sheen present at the Refinery outfall.

Based on Chevron's dilution factor study for an outfall diffuser, the dilution factor can go up to 80. Therefore, the actual discharge concentration at the diffuser, 40 feet below the water surface, can be much higher than the concentration detected at the water surface within the sheen.

15. As stated in the March 4, 1998 report, and presented in the June 2, 1998 meeting, Chevron has committed to do the following activities as follow-up measures to prevent reoccurrence:

- a. Install an additional lubrication system on the Refinery's T-260 Wet Pit pumps to help prevent thrust bearing failure. This was completed on January 12, 1998
 - b. Review and upgrade the entire instrumentation system at the T-260 Wet Pit.
 - c. Implement an oil recovery program at the T-260 wet Pit to prevent free-oil overflow into the T-260 Overflow Collection Basin.
16. Based on the June 25, 1998 letter from Chevron, preliminary cost estimates for Wet Pit maintenance and upgrades (including items b and c above) are approximately \$200,000. Chevron has committed to complete this Wet Pit project in September 1998 before the next rainy season.

CONCLUSION

17. Regional Board staff conclude that the malfunction of diversion pumps on January 9, 1998, and the resulting violation by Chevron from January 11, 1998 to February 4, 1998, was avoidable. As set forth in the facts stated above, Chevron failed to take appropriate action to maintain pumps T-263 and T-264, and failed to act on non-compliant discharge in a timely manner:
 - a. The thrust bearing failure for pump T-263 could have been prevented by Chevron's installation of a back-up lubrication system. Chevron could have tested pump T-264 for air leaks thus ensuring its function.
 - b. Chevron had knowledge that the overflow from T-260 Wet Pit and Overflow Collection Basin may have contained oil and grease higher than the effluent discharge limit. The storm on January 9, 1998 generated 10,830,082 gallons of storm water, which would normally be diverted to the diversion tanks with a holding capacity of 14,000,000 gallons; however, storm water was diverted to the T-260 Wet Pit and Overflow Collection Basin due to pump failure. Chevron failed to realize that oil had trapped inside the outlet trough which led to the effluent violation on January 11, 1998.

IMPACTS RESULTING FROM THE DIVERSION PUMP FAILURE

18. Oil and grease are not readily soluble in water and form a film on the water surface. Oily films can coat birds and aquatic organisms, thus affecting respiration and thermal regulation, and causing death. Oil and grease can also cause nuisance conditions (odors and taste), that are aesthetically unpleasant, and can restrict a wide variety of beneficial uses. It is difficult to quantify the impacts of oil sheen present in receiving water for 14 days, to birds and fish due to their migration.

The beneficial use of receiving water include contact recreation for human health protection. The detected total PAHs of 2.2 ppb exceeds the objectives for protection of human health specified in the California Ocean Plan of 0.0088 ppb.

19. The economic benefit derived from Chevron's avoidance of repair costs (\$2,400) is negligible based on a USEPA - BEN model.

ALLEGED VIOLATIONS:

20. Due to the facts described above, Chevron is alleged to have violated the following sections of Regional Board Order No. 97-112:

A. 2. Effluent Limitations and Performance Goals, a. Conventional and Nonconventional Pollutants (page 16)

"Oil and grease discharge limitations: Monthly (30-day average) of 12 mg/L and daily maximum of 24 mg/L."

C. RECEIVING WATER LIMITATIONS (page 30)

"1. Floating particulate and oil and grease shall not be visible as a result of wastes discharged."

C. RECEIVING WATER LIMITATIONS (page 31)

"14. The wastes discharged shall not cause objectionable odors to emanate from the receiving waters."

"15. Wastes discharged shall not cause receiving waters to contain any substance in concentrations toxic to human, animal, plant, or fish life."

D. REQUIREMENTS AND PROVISIONS (page 31)

"2. The Discharger shall comply with all applicable effluent limitations, national standards of performance, and all federal regulations established pursuant to Sections 301, 302, 304, 306, 307, 316, and 405 of the Clean Water Act and amendments thereto."

D. REQUIREMENTS AND PROVISIONS (page 32)

"4.d. Any single reported value which exceeds a daily or instantaneous maximum effluent concentration or mass discharge limitation of the waste discharge requirements (including the provisions of Sections A.2.b., A.2.c., A.3., and A.4.) shall be considered a violation of said limit."

D. REQUIREMENTS AND PROVISIONS (page 33)

"9. The Discharger shall provide standby or emergency power facilities and/or storage capacity or other means so that in the event of plant upset or outage due to power failure or other cause, discharge of raw or inadequately treated waste does not occur."

STANDARD PROVISIONS, GENERAL MONITORING AND REPORTING REQUIREMENTS, A. General Requirement (page N-1)

"1. Neither the disposal nor any handling of wastes shall cause pollution or nuisance."

"2. Wastes discharged shall not contain any substances in concentrations toxic to human, animal, plant, or aquatic life."

"3. This discharge shall not cause a violation of any applicable water quality standards for receiving waters adopted by the Regional Board or the State water Resources Control board as required by the Federal clean Water Act and regulations adopted thereunder.

"4. Wastes discharged shall not contain visible color, oil and grease, and shall not cause the appearance of color, grease, oil or oily slick, or persistent foam in the receiving waters or on channel banks, walls, inverters or other structures."

STANDARD PROVISIONS, GENERAL MONITORING AND REPORTING REQUIREMENTS, A. General Requirement (page N-2)

"12. Effluent limitations, national standards of performance and toxic and pretreatment effluent standards established pursuant to Sections 301, 302, 303(d), 304, 306, 307, 316, 318, and 405 of the Federal Clean Water Act and amendments thereto are applicable to the discharge."

STANDARD PROVISIONS, GENERAL MONITORING AND REPORTING REQUIREMENTS, B. General Provision (page N-4)

"12. The discharger shall take all reasonable steps to minimize or prevent any discharge in violation of this order and permit which has a reasonable likelihood of adversely affecting human health or the environment."

"13. The discharger shall at all times properly operate and maintain all facilities and system of treatment and control including sludge use and disposal facilities (and related appurtenances) that are installed or used by the discharger to achieve compliance with this Order. This provision requires the operation of backup or

auxiliary facilities or similar system that are installed by a discharger only when necessary to achieve compliance with the conditions of this Order."

21. As the owner, operator, and sole permittee, Chevron bears imputed responsibility to comply with all provisions of Order No. 97-122.
22. Sections 13376 and 13377 of the CWC prohibit the discharge of pollutants to surface waters, except as authorized by waste discharge requirements that implement the provisions of the Federal Clean Water Act.
23. Section 13385 (a) of the CWC states that "any person who violates any of the following shall be liable civilly in accordance with subdivisions (b), (c), (d), (e), and (f): (2) Any waste discharge requirements or dredged and fill material permit."
24. Section 13385 (c) of the CWC states that "Civil liability may imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:
 - (a) Ten thousand dollars (\$10,000) for each day in which the violation occurs; and
 - (b) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

PROPOSED CIVIL LIABILITY:

25. The total maximum civil liability authorized by the California Water Code is \$11,790,000 (which includes \$40,000 under Section 13385(c)(1) and \$11,750,000 under Section 13385(c)(2).
 - a. Under Section 13385 (c)(1), the maximum civil liability that could be imposed by the Regional Board for violation of the terms and conditions of Order No. 97-112 is \$10,000 per day per violation. Chevron is alleged to have violated Board Order No. 97-112 for 4 days between January 11, 1998 and January 14, 1998 including exceedance of effluent discharge limit on January 11, 1998, and 3 days of violation of receiving water requirements. Therefore, the maximum liability under (c)(1) of the California Water Code is:
$$4 \text{ days} \times \$10,000 \text{ per day} = \$40,000$$
 - b. Under Section 13385(c)(2) of California Water Code, the maximum civil liability that could be imposed by the Regional Board for violation of the terms and conditions of Order No. 97-112 is ten dollars per gallon of discharge for volumes greater than 1,000 gallons. Therefore, the maximum liability under (c)(2) of the California Water Code is:

$$[1,176,000 \text{ gallons} - 1,000 \text{ gallons}] \times \$10 = \$11,750,000$$

26. Pursuant to California Water Code Section 13385(e), the Regional Board is required to consider the following factors in determining the amount of civil liability to be imposed: the nature, circumstances, extent, and gravity of the violations; with respect to the violator, the ability to pay; any prior history of violations; the degree of culpability; economic benefit or savings, if any, resulting from the violation; and other matters as justice may require.
- a. Nature, circumstances, extent, and gravity of the violations: Chevron discharged a total of 11,760,000 gallons of wastewater resulted in 4 days violation of Order No. 97-112. As a result of this incident, the discharge created a condition of pollution and nuisance. The detected concentrations for petroleum and polynuclear aromatic hydrocarbons could have been higher at the discharge point near the diffuser 40 feet below the water surface, since the dilution factor can be up to 80 times based on Chevron's study for the outfall diffuser. This discharge may have had impacts to the following beneficial uses designated in the Los Angeles Region Water Quality Control Plan for the receiving water: water contact recreation, non-contact water recreation, commercial and sport fishing, marine habitat and wild habitat, spawning, reproduction, and/or early development, preservation of biological habitats, rare, threatened, or endangered species, and migration of aquatic organisms. However, Chevron's efforts to cleanup the contamination warrants a reduction from the maximum civil liability.
 - b. The ability of the discharger to pay: Payment of the total maximum civil liability authorized by the CWC would impose a financial hardship on Chevron, and could affect the ability of Chevron to continue operating and maintaining the Refinery. Therefore, a reduction from the civil liability is warranted.
 - c. Prior history of violations: Reported NPDES permit violations during the last six years (1992-1997) include five suspended solids violations (including one 30-day average and four daily maximum), one carbonaceous biochemical oxygen demand violation, two chronic toxicity violations and one sulfide violation. However, these violations are considered minor and are not known to have caused environmental harm. In addition, most of these violations were primarily due to process control and operational problems of the treatment plant. Operational and process control adjustments were made to the plant to correct the problems. Therefore, a reduction in the amount of civil liability is warranted.
 - d. Degree of culpability: As explained in section 16 above, the incidents of violation could have been avoided with reasonable preventive measures, including installation of an oil skimmer at the Wet Pit and proper design of the flow diversion system to allow testing of the pumps. Therefore, no reduction in the amount of civil liability is recommended.

- e. Economic benefit or savings: Chevron did not realize any significant economic benefit, since the repair work completed next day. Therefore, a reduction in the amount of civil liability is warranted.
 - f. Other matters as justice may require: Other matters to consider include the time and resources spent by the staff of the Regional Board in evaluating the incidents of violation and preparing this Order and related documents. The Regional Board charges a rate of \$70 per hour for staff cost recovery. With total staff time of 143 hours, staff costs incurred by the Regional Board total \$10,000.
26. After consideration of the factors listed in Section 13327 and Section 13385(e) of the California Water Code, the Regional Board Executive Officer recommends that administrative civil liability be imposed by the Regional Board in the amount of \$73,520, which includes: (a) a statutory assessment of \$40,000 calculated at \$10,000 per day for a discharge duration of 4 days which include one day effluent violation and 3 days receiving water violation with a significant oil sheen; (b) \$23,520 for impacts that may have occurred to ecological resources and public health, which is assessed at two cents per gallon for a discharge of 1,176,000 gallons in violation of effluent discharge limit; and (c) staff costs of \$10,000.
- The administrative civil liability of \$73,520 is due and payable on November 13, 1998, subject to the provisions outlined in paragraph No. 27 below.
27. Chevron may elect to pay up to \$63,520 of the \$73,520 administrative civil liability by committing to supplemental environmental projects (SEPs). In the event that the Chevron chooses to invest in local environmental projects, a proposal for the SEPs is due to the Regional Board by November 13, 1998. The proposal for SEPs will be subject to the approval of the Executive Officer.
- A cash payment for the remaining \$10,000 of the administrative civil liability is due and payable on November 13, 1998 to the State Water Resources Control Board, Cleanup and Abatement Account.
- Should Chevron's SEPs not be approved by the Executive Officer, or should the Chevron later fail or elect not to implement SEPs, the amount of \$63,520 will be due and payable within 30 days after the Executive Officer's determination that the Chevron has fail to comply with requirements of SEPs proposal.
28. In the event that Chevron fails to comply with the requirements of this Complaint, the Executive Officer is authorized to refer this matter to the Office of Attorney General for enforcement.
29. This enforcement action is exempt from the provisions of the California Environmental quality Act, California Public Resources Code, Section 21000, et seq., in accordance with California Code of Regulations, Title 14, Chapter 3, Section 15321.

WAIVER OF HEARING:

30. Chevron may waive the right to a hearing. If Chevron chooses to waive the right to a hearing, an authorized agent must sign the waiver form attached to this complaint, and return it by October 23, 1998 to the Regional Water Quality Control Board, Los Angeles Region, 101 Centre Plaza Drive, Monterey Park, CA 91754 and a check for the amount of the recommended civil liability of \$73,520 by November 13, 1998. In the event that Chevron elects to conduct SEPs, a letter, clearly stating that Chevron will provide a proposal for SEPs, shall be sent along with waiver by October 23, 1998, and a proposal for SEPs and a check in the amount of \$10,000 (payable to the State Resources Control Board Cleanup and Abatement Account) shall be submitted to the Regional Board by November 13, 1998.

DENNIS A. DICKERSON
Executive Officer

Dated: October 13, 1998
/RC

WAIVER OF THE RIGHT TO A HEARING

By signing below and attaching a cashier's check for the amount of administrative civil liability proposed in Complaint No. 98-074, Chevron U.S.A. Inc. (Chevron) waives its right to a hearing before the Regional Board. Chevron understands that it is foregoing its right to argue against the allegations made by the Executive Officer in this complaint, and against imposition of, and the amount of, the civil liability imposed. Furthermore, Chevron understand that if an Administrative Civil Liability Order is adopted at the Regional Board meeting on November 2, 1998, payment will be due on December 2, 1998.

Signature:_____

Name:_____

Position:_____

Chevron U.S.A. Inc.

Date:_____

Table 1: Summary of wastewater discharged volume, peak flow of wastewater discharged, oil and grease concentration, and size of ocean oil sheen

Date and time	Wastewater Discharged (gallons)	Peak Flow of Wastewater Discharged (gallons/min.)	Oil and Grease Concentration (mg/l) Daily Maximum Limit of 24 mg/l	size of Ocean Oil Sheen (square feet)
1/9/98	6.846.420	25.050	-----	-----[1]
1/10/98	16.368.170	19.650	-----	-----[1]
1/11/98	10.293.640	15.850	-----	-----[1]
6:30 pm-7:00 pm	168.000	-----	47	-----
7:00 pm-10:00 pm	1.008.000	-----	100	-----
1/12/98	3.467.170	10.800	<13	3.960.000
1/13/98	13.041.070	13.600	<5.9	3.960.000
1/14/98	7.585.410	7.090	<5.6	2.376.000
1/15/98	8.256.570	6.270	<5.8	200
1/16/98	7.637.140	5.820	-----	-----
1/17/98	7.420.700	5.680	-----	-----
1/18/98	7.396.270	5.790	-----	-----
1/19/98	3.507.000	7.640	-----	-----
1/20/98	6.296.500	9.500	-----	-----
1/21/98	11.551.590	12.000	3	12.000
1/22/98	8.779.750	7.630	4	12.000
1/23/98	3.724.350	6.130	3	600
1/24/98	9.162.440	6.940	4	600
1/25/98	8.926.820	7.180	5	600
1/26/98	6.489.700	6.130	-----	-----
1/27/98	6.238.890	5.730	-----	-----
1/28/98	6.015.030	6.600	2	8.500
1/29/98	9.080.540	13.850	3.5	600
1/30/98	8.100.820	9.450	3	600
1/31/98	10.367.900	10.100	-----	----- [2]
2/1/98	7.974.120	7.020	-----	----- [2]
2/2/98	8.903.790	9.250	-----	----- [2]
2/3/98	18.975.882	20.600	<8	7.500
2/4/98	15.234.520	18.900	3	100

[1] Chevron did not conduct field observations on receiving water for the presence of oil sheen. However, oil sheen may be present since untreated wastewater discharged on January 9, 1998 at 10 p.m. for two hours (based on the Wet Pit water level chart) came from overflow originating from the Wet Pit to the Wet Pit Overflow Collection Basin during pump failure.

[2] Chevron did not conduct field observation on receiving water for presence of oil sheen. However, oil sheen is likely to be present due to high discharge volume on 1/31/98.

Table 2: Daily rainfall and runoff

Date	Rainfall (inches) [1]	Daily rainfall runoff (gallons) [2]
1/3/98	0.16	967.836
1/4/98	0.50	783.946
1/5/98	0	291.776
1/6/98	0	170.256
1/9/98	2.01	-----
1/10/98	0.14	8.452.306
1/11/98	0	2.377.776
1/12/98	0	-----
1/29/98	0.96	1.164.676
1/30/98	0	184.956
1/31/98	0.03	2.652.036
2/2/98	0.67	987.926
2/3/98	3.11	9.876.596
2/4/98	0.01	6.535.560
2/5/98	0	1.832.557

[1] Rainfall at Los Angeles Civic Center per National Weather Service records in January 1998 and at Los Angeles Airport in February 1998.

[2] Daily rainfall runoff = forebay flow - 30-day average dry weather flow (7,915,864 gallons per day) from 10/12/97 to 11/10/97.

Figure 1 El Segundo Refinery Wastewater Flow